

00-VE14.10  
09/144,635

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bartholomew et al. Group Art Unit : 2661

Serial No.: 09/144,635 Examiner: Pizarro, R.

Filed: 08/31/1998 Paper No.:

For: Selective Bandwidth Connectivity Through Network Line Cards

Attorney Docket No.: 00-VE14.10

**EXHIBIT E**

TO THE

**AFFADAVIT OF CHRISTIAN R. ANDERSEN**

OCT-23-2003 15:32

RADER FISHMAN AND GRAUER

10/23/2003 THU 14:08

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P. 01/08

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**U.S. Department of Commerce**  
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## Fax Cover Sheet

Date: 10/23/03	
To: Joyce Krumpholtz	From: Ex. P. Rader
Application/Control Number: 09/144635	Art Unit: 2601
Fax No.: (248) 594-0010	Phone No.: (203) 305-112
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### Comments:

Please find enclosed copy of  
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Number of pages 3 including this page

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FORM PTO-1472  
(Rev. 4-2002)U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

## EXAMINER'S CASE ACTION WORKSHEET

Application No. 08/144,835		Legal Instrument Examiner
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CHECK TYPE OF ACTION

DATE OF COUNT

<input checked="" type="checkbox"/> Non-Final Rejection	<input type="checkbox"/> Restriction/Election Only	<input type="checkbox"/> Final Rejection
<input type="checkbox"/> Ex Parte Quayle	<input type="checkbox"/> Allowance	<input type="checkbox"/> Advisory Action
<input type="checkbox"/> Examiner's Answer	<input type="checkbox"/> Reply Brief Noted	<input type="checkbox"/> Non-Entry of Reply Brief
<input type="checkbox"/> Defective Notice of Appeal	<input type="checkbox"/> Interference Disposal SPE _____ (Approval for Disposal)	<input type="checkbox"/> Suspension (Examiner-Initiated) SPE _____ (Initial)
<input type="checkbox"/> Defective Appeal Brief	<input type="checkbox"/> SIR Disposal (use only after FAOM)	<input type="checkbox"/> Supplemental Examiner's Amendment
<input type="checkbox"/> Miscellaneous Office Letter (With Shortened Statutory Period Set)	<input type="checkbox"/> Notice of Non-Responsive Amendment (With One Month Time Period Set)	<input type="checkbox"/> Miscellaneous Office Letter (No Response Period Set)
<input type="checkbox"/> Abandonment after BPAI Decision	<input type="checkbox"/> Supplemental Action (excluding Examiner's Answer)	<input type="checkbox"/> Response to Rule 312 Amendment
<input type="checkbox"/> Letter Restarting Period for Response (e.g., Missing References)	<input type="checkbox"/> Interview Summary	<input type="checkbox"/> Authorization to Change Previous Office Action SPE: _____ (Initial)
<input type="checkbox"/> Abandonment	<input type="checkbox"/> Express Abandonment Date: _____	<input type="checkbox"/> Other Specify: _____

Examiner's Name: Ricardo M. Pizarro

AU: 2661

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**Office Action Summary**

Application No.

09/144,635

Applicant(s)

BARTHOLOMEW ET AL.

Examiner

Ricardo M. Pizarro

Art Unit

2661

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
 Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any claimed patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-45, 48 and 53-61 is/are allowed.
- 6) ☒ Claim(s) 1-13, 17-29, 33 and 46 is/are rejected.
- 7) ☒ Claim(s) 14-16, 30-32, 34-36 and 47, 49-52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-648) 5) ☐ Notice of Informal Patent Application (PTO-162)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

U.S. Patent and Trademark Office  
 PTO-326 (Rev. 04-01)

Office Action Summary

Part of Paper No. 9

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**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5-7, 10-13, 17-18, 20, 22-27, 33, 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czerwiec.

Czerwiec ( U.S. patent no. 6,314,102 ) discloses a telecommunication system for providing both narrowband and broadband services to subscribers, comprising: requesting from a CP terminal ( element 76 in Fig. 2) via a local link to a line unit and telephone switch, a communication path to a destination, detecting via a monitor (OBC element in Fig. 10) that a request does not seek/ seeks conversion in a line unit ( ADSL-LT card, detecting broadband or narrowband request, col 4 lines 37-50), connecting said terminal through a portion of said line unit around a converter to a wideband data switch connected to a data network ( connecting thru ADSL-LT card ( element 14 a Fig. 10) to ATM switch ( element 48 in Fig.2, col 11 lines 13-20), as in claims 1, 18 and 27; said switching system is connected to a DSP ( front-end DSP chip element in Fig. 10, col 35-43), as in claims 7, 24; said DSP is associated with said line unit( front-end DSP chip element in Fig. 10, col 35-43), as in claims 10, 25; said DSP is associated with said wideband switch( the ATM function of the front-end DSP chip element in Fig. 10, col 35-43), as in claims 11, 26; said DSP is integrated with said line unit ( front-end DSP chip element in Fig. 10, col 35-43), as in claim

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12; said request is made by emitting from said terminal a signal of a predetermined characteristic and detecting is made by a detecting device associated with the line unit, as in claim 13, claim 19; said line unit comprises a line card (LT card of Fig. 10), as in claim 17; said switching system provides hard wired switching (through the DSP processor), as in claims 5, 22; said switching system provides hard wired switching between said terminal and said wideband data switch (hard wire switching obtained through the front-end DSP element in Fig. 10), as in claims 6, 23; receiving a signal via a local link from a CP (76 in Fig. 2) in a network connected via a local link to a program controlled switch in said network (col 11 lines 42-46), making a determination regarding a pre-established characteristic of said signal and responsive to said determination switching said signal to digital signal processing and a wideband edge device (broadband/narrowband detection, col 4 lines 37-50), as in claim 27; said signal processing is performed in a processor separate from said edge device (DSP front-end element in LT card in Fig 10), as in claim 33; a switch for connection to a local link (element 34 in Fig. 2, col 10 lines 54-66), the switch comprising a first port for narrowband communication (first port for connection to POTS) and a second port for connection to a broadband data network (second port for connection to ATM), means for detecting a request for a broadband device and in response controlling the switch to connect the local link to the second port (col 11 lines 13-20), as in claim 46.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the line unit as disclosed by Czerwice with the monitoring means as provided IN it would have provided practical hardware components capable of carrying out a

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telecommunication system in which plain old telephone service and a broadband digital service are simultaneously provided to individual subscribers on conventional transmission lines.

3. Claims 2-4, 8-9, 19, 21, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czerwec in view of admitted prior art AT&T (Lucent) System description 235-100-125 September, 1995.

Czerwec did not specifically disclose said portion of said line comprising a concentrator of said line unit, as in claims 2, 19; said converter comprising a CODEC, as in claim 3; ; said concentrator includes a switching system, as in claims 4, 21; said switching system comprising GDX cross point switching, as in claim 8 ;said switching system comprising cross point switching, as in claims 9, 28; said cross-point switching is performed in a line unit in said network, as in claim 29.

AT&T (Lucent) System description 235-100-125 September 1995 discloses: said portion of said line comprises a concentrator of said line unit ( the space division line concentrator in page 1), as in claims 2, 19;said converter comprises a CODEC ( the coder- decoder element under BORSCHT functions in page 1), as in claim 3; said concentrator includes a switching system ( the solid state switching grids, second paragraph in page 2) , as in claims 4, 21; said switching system comprises GDX cross point switching (solid state GDX switching grids, second paragraph in page 2), as in claim 8 ;said switching system comprises cross point switching ( GDX crosspoints, paragraph 9 ,page 2), as in claims 9, 28; said cross-point switching is performed in a line unit in said network( GDX crosspoints, paragraph 9 ,page 2), as in claim 29.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the line unit elements as disclosed in the AT&T system

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description with the motivation of obtaining a telecommunication system in which plain old telephone service and a broadband digital service are simultaneously provided to individual subscribers on conventional transmission lines.

*Allowable Subject Matter*

4. Claim 37-45, 48, 53-61 are allowed.

Claims 14-16, 30-32, 34-36 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this office action and to include all of the limitations of the base claim and any intervening claims.

Claim 47 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

*Conclusion*

6. Applicant's arguments filed 1/27/03 have been fully considered but they are not persuasive. Applicant argues that the Czerwiec reference fails to disclose a monitor or signal detector with the line unit. Examiner disagrees since Czerwiec discloses such an element with the line unit 14a in Fig 10, please refer to element OBC 19 lines 18-30 where it is disclosed that in FIG. 10 there is an on-board controller (OBC), which may be embodied as a microprocessor included to handle a variety of tasks, such as initialization of ASICs, monitoring



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and processing of messages, and detection of a malfunctioning LT. As indicated in previous office action, claims including objected limitation are hereby allowed.

7. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricardo Pizarro whose telephone number is (703) 305-1121. The examiner can normally be reached on Monday-Thursday from 9:00 AM to 5:00 PM. The fax number for this Group is (703) 872-9314.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms, can be reached on (703) 305-4703.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

February 24, 2003

Ricardo M. Pizarro

TOTAL P.08